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SEATTLE WA 98104

MAILED

JUL 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,619,321 : DECISION ON REQUEST FOR
WOBBEN : RECONSIDERATION OF
Issue Date: November 17, 2009 : PATENT TERM ADJUSTMENT AND
Application No. 10/553,429 : NOTICE OF INTENT TO ISSUE
Filed: August 7, 2006 : CERTIFICATE OF CORRECTION
Docket No. 970054.494USPC :

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-nine (659) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **six hundred fifty-three (653) days**.

Patentee calculated the B delay incorrectly. The B delay period is 389 days, not 395 days as indicated by patentee. Patentee states:

The filing date under 35 U.S.C. § 371 was October 18, 2005. Three years after this date was October 18, 2008; however, the patent issued on November 17, 2009. In

accordance with 37 C.F.R. § 1.702(b), issuance of the patent has been delayed by the PTO by 395 days after the date that is three years after the date on which the application was filed under 35 U.S.C. § 371 (see also 37 C.F.R. § 1.703(b)).

Petition, 01/19/10, p. 2.

The Office notes that in an international application the B delay period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 37 CFR 1.702(b). A priority date of this application is April 24, 2003. As the requirements for early commencement were not met, the national stage commenced in this application on October 24, 2005. Thus, B delay is 389 days, counting the number of days beginning on October 25, 2008, and ending on November 17, 2009, the day the patent issued. See 35 U.S.C. 154(b) and 37 CFR 1.703(b).

Accordingly, the patent term adjustment is 653 days (295 days of A delay + 389 days of B delay - 31 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges the submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating

that the term of the above-identified patent is extended or adjusted by **six hundred fifty-three (653) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT: 7,619,321 B2

DATED: Nov. 17, 2009

DRAFT

INVENTOR(S): WOBBEN

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 264 days.

Delete the phrase "by 264 days" and insert – by 653 days--

PTA Calculations for Application: 10/553429

Application Filing Date:	08/07/2006	PTO Delay (PTO):	295
Issue Date of Patent:	11/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	653
PTO Delay Adjustment:	389		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
52	07/06/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	389		
48.5	10/28/2009	PTA 36 MONTHS			
48	11/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
47	10/13/2009	EXPORT TO FINAL DATA CAPTURE			
46	10/12/2009	DISPATCH TO FDC			
45	10/12/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
44	10/06/2009	ISSUE FEE PAYMENT VERIFIED			
43	10/06/2009	ISSUE FEE PAYMENT RECEIVED			
42	08/11/2009	FINISHED INITIAL DATA CAPTURE			
41	07/13/2009	EXPORT TO INITIAL DATA CAPTURE			
40	07/10/2009	MAIL NOTICE OF ALLOWANCE			
39	07/09/2009	ISSUE REVISION COMPLETED			
38	07/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	07/08/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
36	07/08/2009	DOCUMENT VERIFICATION			
35	06/30/2009	NOTICE OF ALLOWABILITY			
34	06/26/2009	DATE FORWARDED TO EXAMINER			
33	06/01/2009	AMENDMENT AFTER FINAL REJECTION			
32	06/03/2009	CASE DOCKETED TO EXAMINER IN GAU			
31	04/01/2009	MAIL FINAL REJECTION (PTOL - 326)			
30	03/27/2009	FINAL REJECTION			
29	02/20/2009	NEW OR ADDITIONAL DRAWING FILED			
28	03/23/2009	DATE FORWARDED TO EXAMINER			
27	02/20/2009	RESPONSE AFTER NON-FINAL ACTION		31	25

26	02/20/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	10/20/2008	MAIL NON-FINAL REJECTION			
24	10/16/2008	NON-FINAL REJECTION			
23	09/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	09/22/2008	DATE FORWARDED TO EXAMINER			
18	08/21/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
17	07/28/2008	MAIL RESTRICTION REQUIREMENT	295		9
16	07/25/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
14.7	09/28/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
14	09/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/25/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	09/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
9	08/07/2006	371 COMPLETION DATE			
8	08/28/2006	APPLICATION DISPATCHED FROM OIPE			
7	08/07/2006	ADDITIONAL APPLICATION FILING FEES			
6	08/07/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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